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FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

May 28, 1996

WT96-18
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

The Honorable Richard J. Durbin
U. S. House of Representatives
2463 Rayburn House Office Building
Washington, D.C. 20515-5271

Dear Congressman Durbin:

Thank you for your letter of March 14, 1996, regarding the Commission's decision to freeze acceptance of paging applications. You express concern that the suspension of processing of paging applications will adversely affect small businesses, such as Glenayre Technologies, that provide paging services.

In my view, our decision to suspend application processing in the paging proceeding advances two critical goals -- preservation of our ability to assign licenses through auctions, and deterrence of license fraud and speculation. In the paging proceeding, the Commission has proposed to transition from licensing on a transmitter-by-transmitter basis to a geographic licensing approach where single licenses are issued for geographic areas that encompass many sites. Such short-term freezes preserve our ability to assign spectrum using auctions where we receive competing applications for a single license. We decided to freeze application processing based on our conclusion that continuing to accept new applications under the current rules, after the industry had been notified of the proposed rule changes, would impair the objectives of the paging proceeding. In particular, we were concerned that the potential benefits of geographic area licensing, with competitive bidding used to select from among competing applicants, would be undermined by continuing to invite site-specific applications for "free" spectrum on a first-come, first-served basis. In this respect, the paging freeze is consistent with our approach in transitioning to geographic licensing and auctions in other wireless services, including Multipoint Distribution Service, 800 and 900 MHz Specialized Mobile Radio (SMR) Service Location and Monitoring Service, 38 GHz Service and 220 MHz Service.

Assigning these frequencies by auction, in turn, helps deter fraud and speculation and ensures that this valuable public resource is assigned rapidly and efficiently to the parties who value it the most, rather than given away to the first party who files its application with the Commission. For example, just prior to the imposition of the paging application freeze, the Commission experienced significant increases in the filing of speculative applications for paging channels by application mills. In the three weeks preceding the imposition of the freeze, for instance, the Commission received over 1,700 common carrier paging applications compared to an average of approximately 700 applications per month during fiscal year 1995. A corresponding increase in applications occurred on private carrier paging channels, including 1,400 applications filed on a single day shortly before the freeze was adopted. Significantly, the Federal Trade Commission has stated with respect to paging that "clearly

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the interim freeze against accepting new applications also has a strong deterrent effect on application mill fraud."

The Commission shares your concern that our rule making activities not impede the continued growth of the paging industry. Paging has an unparalleled record of offering consumers low cost wireless service from a great variety of discrete providers. To preserve and promote the vigorous competition that has long characterized paging during our transition to a less regulatory licensing scheme, the interim freeze was partially lifted for incumbent paging licensees on April 23, 1996, in the Commission's First Report and Order in WT Docket No. 96-18. Pursuant to that decision, incumbent paging licensees will be able to apply for new sites that are within 65 kilometers (40 miles) of an authorized and operating site. Those applications will be put on Public Notice and, if no competing application is filed, will be expeditiously processed, enabling incumbents to expand their service areas.

This limited relief from the paging freeze is appropriate to enable existing paging operators to meet customer needs and improve service to the public while the rulemaking is pending. We also believe that the relief as structured will accommodate growth of the industry during the brief period of time before final paging rules are adopted. At the same time, our decision to retain limitations on new applications during the interim period will prevent spectrum warehousing and deter application fraud. These interim rules will remain in effect until the Commission adopts final rules in the paging proceeding. For your convenience and information, enclosed is a copy of the Press Release concerning the First Report and Order in WT Docket No. 96-18.

I am convinced that the processing freeze we have imposed is necessary to achieve the Commission's objectives of ensuring fast, fair and efficient assignment of licenses and rapid deployment of service to the public. At the same time, I recognize the seriousness of the concerns raised by the paging industry regarding the economic impact of our suspension of processing, even in the short term, particularly on licensees that are small businesses. Notably, in a number of proceedings initiated to transition to geographic area licensing and auctions, including the paging proceeding, the Commission has proposed to adopt special provisions for small businesses such as bidding credits and installment payments. Because the paging industry is well-established, highly competitive and experiencing rapid growth in consumer demand, we found that the partial lifting of the freeze as described above would not compromise the objectives of the paging rulemaking.

The Honorable Richard J. Durbin

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I can assure you that we will move as quickly as possible regarding these issues and will carefully consider the comments of the paging industry and the general public, as well as the concerns stated in your letter, in making our decision.

Thank you for your inquiry.

Sincerely,

A handwritten signature in black ink, appearing to be 'R. Hundt', with a large, sweeping flourish extending to the right.

Reed E. Hundt
Chairman

Enclosure



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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC, 518 F.2d 385 (D.C. Cir. 1974).

Report No. DC 96-33

ACTION IN DOCKET CASE

April 24, 1996

FCC RELEASES INTERIM ORDER PARTIALLY LIFTING THE PAGING FREEZE FOR INCUMBENT LICENSEES (WT Docket No. 96-18, PP Docket No. 93-253)

The Federal Communications Commission released a *First Report and Order*, (*Order*) on April 23, 1996, which adopts interim measures governing the licensing of paging systems, effective upon publication of the *Order* in the Federal Register. This item will allow small and medium-sized paging companies to incrementally expand to serve their customers, upgrade their equipment to spectrum efficient technology, and compete with nationwide paging companies during the pendency of this rulemaking proceeding.

In the *Notice of Proposed Rulemaking*, adopted on February 8, 1996, the Commission suspended acceptance of new applications for paging channels. This freeze applied to all paging channels except the CCP nationwide channels and the exclusive PCP channels on which the licensees had earned nationwide exclusivity.

The *Order* partially lifts the interim freeze for incumbent paging licensees; clarifies that the formulas proposed in the *Notice of Proposed Rulemaking* are proposed for the final rules, and are not mandated for the interim period; (3) clarifies the internal minor modifications allowed during the interim period; and (4) provides that certain services are not subject to these interim measures. The *Order* states that the interim freeze is necessary to combat fraudulent paging application schemes, but that due to the highly competitive nature of the paging industry paging operators need some flexibility to modify and expand their systems.

- The Commission is lifting the paging application freeze for incumbent paging licensees, and will resume accepting applications for additional CCP and PCP transmission sites if (1) the applicant is an incumbent paging licensee, and (2) the applicant certifies that the proposed transmission site is within 65 kilometers (40 miles) of an authorized and operating transmission site which was licensed to the same applicant on the same channel on February 8, 1996. During this interim period all applications for exclusive 929 MHz channels and all CCP channels will be put on Public Notice.

- The Commission will accept initial applications for additional sites only from incumbents, as described above, but will accept competing applications from new applicants. If no competing application is filed, the incumbent's application can be granted. If a competing application is filed, the applications will be treated as mutually exclusive.

With respect to minor modifications, the Commission clarifies that the formula proposed in the *Notice of Proposed Rulemaking* for the interference contour is proposed for the final rules, and is not required during the interim period. Additionally, the Commission provides that on an interim basis 929 MHz licensees may use the tables in Section 22.537(f) to determine where stations may be added as internal system changes.

Additionally, the Commission provides that Basic Exchange Telecommunications Radio Systems (BETRS) and conventional Rural Radiotelephone Service are not mobile services and are not subject to the interim freeze in this proceeding. Additionally, Special Emergency Radio Service (SERS) is exempt from the interim freeze.

These rules set forth in the *Order* are effective upon publication of the *Order* in the Federal Register. These rules are only for use on an interim basis until the Commission adopts final rules in this rulemaking proceeding.

Action by the Commission April 22, 1996 by First Report and Order (FCC 96-183).
Chairman Hundt, Commissioners Quello, Ness and Chong.

- FCC -

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RICHARD J. DURBIN

20TH DISTRICT, ILLINOIS

AT-LARGE WHIP

COMMITTEE ON APPROPRIATIONS

SUBCOMMITTEE ON AGRICULTURE AND
RURAL DEVELOPMENT

SUBCOMMITTEE ON TRANSPORTATION

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March 14, 1996

Mr. Reed E. Hundt, Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Chairman Hundt:

I am writing to express my concern about proposed interim rules issued by the Federal Communications Commission on February 8. These procedures would suspend consideration of new applications for licenses to operate paging systems in the 900 megahertz communications band while changes to existing rules are being evaluated. Due to the significant adverse impact of this action on the economy and citizens of Western Illinois, I respectfully urge your prompt reconsideration and rescission of this decision to impose a freeze on the application process.

The direct effect of this freeze on Glenayre Technologies Company of Quincy, Illinois, which produces a substantial number of paging system components, is particularly detrimental. It is estimated that due to the freeze, this company will incur lost sales of \$12 million during the first quarter of 1996, which will have a serious effect on the local economy.

The economy of the City of Quincy depends heavily on the continued operation of industries such as Glenayre Technologies. This area of Illinois was economically hard-hit in the 1970s and 1980s, but has rebounded in the 1990s thanks to efforts to diversify its industrial base by expanding into new areas such as the electronics field. Glenayre Technologies Company employs 650 people, has hired nearly 200 workers in the past year, and recently dedicated a 65,000 square-foot addition to its plant. Glenayre's success has benefitted the entire community and has contributed to the growth of many of the company's suppliers.

I urge you to carefully consider these concerns and lift the freeze.

Sincerely,

Richard J. Durbin
Member of Congress